

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 13598, of Capitol Building, Inc., pursuant to Sub-section 8207.2 of the Zoning Regulations, for a special exception under Paragraph 3101.48 to permit a parking lot in an R-2 District as an extension of an accessory parking lot in a C-2-A District at premises 7445 Georgia Avenue, N.W., (Square 2962, part of Lots 22 and 23).

HEARING DATE: November 10, 1981
DECISION DATE: December 2, 1981

FINDINGS OF FACT:

1. The subject site had been advertised as Square 2962, parts of Lots 6 and 7. Lots 6 and 7 have since been subdivided and are now known as Lots 22 and 23.

2. The subject site is located on the southeast corner of the intersection of Georgia Avenue and Hemlock Street, and is known as premises 7445 Georgia Avenue, N.W. The site is on two lots, Lots 22 and 23, in Square 2962. Both lots are split-zoned, with the C-2-A District applicable to the first 100 feet east of the Georgia Avenue right-of-way and the R-2 District applicable to the remaining forty-five feet to the east of the aforementioned zoning line.

3. The subject site is rectangular in shape and topographically level. The site measures approximately 32,000 square feet in area. The site is vacant of any permanent structures but is surfaced with a combination of macadam, concrete and gravel. There exists along the east side of the site, approximately nine feet west of the lot line, a six foot high solid cedar stockade fence in good condition.

4. The site extends 218 feet south of the Hemlock Street lot line and approximately 145 feet east from the Georgia Avenue lot line. There is an existing curb cut on the Hemlock Street side of the site. To the south of the subject site is a paved lot formerly used as a used car lot, and a liquor store that also extends back approximately 145 feet from Georgia Avenue into the R-2 zone. To the east of the subject site across a six foot wooden fence are fourteen single family residences, twelve of which are semi-detached and are owned by the applicant and leased to residential tenants. All of the residences front on 9th Street, N.W. A service driveway abuts the rear yards of the leased houses.

This driveway abuts the rear yards of the leased houses. This driveway joins a public alley behind the owner-occupied houses at a point approximately 230 feet north of Geranium Street and 235 feet south of the site. Low-level walk-up apartment units occupy most of the frontage immediately across Georgia Avenue to the west of the site. A funeral home is on the northwest corner of Georgia Avenue at Geranium Street.

5. The applicant has leased Lots 22 and 23 to the Southland Corporation on a long-term basis. Southland plans to build and operate a 7-Eleven food store on Lot 23 and has sub-leased a portion of Lot 22 to Pizza Hut, Inc. which proposes to erect and operate a Pizza Hut family restaurant on that site.

6. The 7-Eleven store will be sixty feet wide and forty-five feet deep containing 2,520 square feet of floor area. The building will be a one-story masonry building with a mansard roof. Three parking spaces are required by the Zoning Regulations and ten parking spaces will be provided on the commercially zoned property. All parking spaces will be nine feet wide and nineteen feet long and will not project over any building line or lot line. The rear wall of the 7-Eleven building will be on the zoning boundary line. The parking surface will be constructed of an all weather impervious surface of bituminous concrete.

7. The Pizza Hut family restaurant building on Lot 23 will be thirty-five feet wide and ninety-four feet long containing 3,200 square feet. The building will be of brick and frame construction. Four parking spaces are required by the Zoning Regulations and seven spaces will be provided on the commercially zoned property. All parking spaces will be nine feet wide by nineteen feet long and designed so as not to project across any lot line or building line. The roof over-hang at the rear of the Pizza Hut building will be on the zoning boundary line.

8. The site will be landscaped with clusters of dwarf junipers and a planting strip along the Georgia Avenue and Hemlock Street frontages. Bradford pear trees will be planted in the planting strip along the Hemlock Street frontage. The applicant proposes to add a substantial planting of Leland Cypress trees in the planting strip between the existing six foot wooded fence and the proposed parking spaces. This stand of cypress trees is designed to provide a visual buffer between the commercial and residential uses, a circumstance which also adds visual amenities to the site. The Leland Cypress tree is a year-round evergreen that will be approximately six feet high when planted and grow to a height of approximately ten feet.

9. The area that is the subject of this application is located at the rear of Lots 22 and 23 and is approximately forty-five feet wide and extends 218 feet south of Hemlock Street and is 100 feet east of and parallel to Georgia Avenue. The applicant proposes to improve an area extending thirty-five feet east from the zoning line with an all weather impervious surface. The existing concrete and macadam paving will be removed. The applicant proposes to construct eight parking spaces in the thirty-five foot strip on Lot 22 and ten parking spaces on the thirty-five foot strip on Lot 23. Each space will be nine feet wide and nineteen feet in length and no part of any space will project over any lot line or building line. The spaces on the south side of Lot 23 will also have wheel-stops located three feet inside the lot line to prevent vehicles from projecting over the lot line. Access lanes in the rear of both buildings will be sixteen feet wide.

10. The lighting on the proposed parking strip will consist of two double lighting standards each sixteen feet high and each containing 400 watt bulbs with the fixtures placed so as to have all light rays directed away from the residential uses and towards the commercial use.

11. The applicant proposes to close the existing curb cut from the property to Hemlock Street and open a new curb cut on Hemlock Street that will be located 115 feet from the curb line extended on Georgia Avenue. No vehicular entrance or exit will be located within twenty-five feet of a street intersection as measured from the intersection of the curb lines extended.

12. The Georgia Avenue roadway is sixty feet wide and is classified by the District of Columbia Department of Transportation as a minor arterial. Two lanes of traffic flow in each direction at all times. The curb lanes provide for parking at all times except during certain early morning street cleaning hours. Traffic flows at level of Service A during the peak hour on Georgia Avenue. Hemlock Street is classified as a local street. The roadway is thirty feet wide. Traffic moves in one lane in each direction at all times.

13. The applicant's traffic expert testified that between ninety and 110 vehicles will enter and leave the 7-Eleven site during its peak generation hour which will likely occur in the a.m. peak hour. He stated further that traffic will easily enter the site directly from the northbound Georgia Avenue traffic stream during the p.m. peak traffic hour. The traffic engineer further testified that the peak traffic generation hours for the Pizza Hut restaurant would not occur until after 7:00 p.m., a period that is after the peak traffic generation period on Georgia

Avenue. Based upon his surveys of two similar Pizza Hut restaurants in the Washington Metropolitan area, he estimated that this facility would generate between fifty and seventy-five vehicles during its maximum generation hour which is likely to occur between 7:00 p.m. and 9:00 p.m. on weekends. The Board so finds.

14. The traffic expert further testified that the thirty-seven spaces that will be provided will be adequate for the two facilities. The applicant's traffic expert further testified that the proposed parking lot will not create adverse traffic impacts on Georgia Avenue or on the nearby streets and that there were sufficient parking spaces available to serve the 7-Eleven store and the Pizza Hut restaurant during their peak customer generation periods. The Board so finds.

15. By memorandum dated November 12, 1981, the District of Columbia Department of Transportation reported that it has coordinated the design of the site plan with the developer and that the plan SP-12 dated March, 1981, reflects DOT's recommendation for parking lot layout and traffic circulation. The Department further stated that it had observed occasional traffic back-ups at the Georgia Avenue and Hemlock Street intersections but was in general agreement with the traffic report submitted by the applicant that the approval of this application will have no measurable adverse impact on the street system. The Board so finds.

16. Neighbor's Inc., a community group located in the area of the subject site, filed a letter with the Board dated October 31, 1981 stating that Neighbor's, Inc. did not oppose this application but is concerned about increased litter, noise, traffic and loitering in the neighborhood. That letter also expressed concern about the all night operation of the 7-Eleven store. Other concerns expressed related to the adequacy of landscaping, the use of complimentary brick on the two buildings, trash removal, sign placement, lighting and the operation of electronic games in the stores.

17. There were two letters of record in opposition to the application based on noise, litter, traffic, loitering, reduction of value in their properties and that parking lots do not belong in residential neighborhoods.

18. The franchise owner of the 7-Eleven store has had two and a half years of experience operating another 7-Eleven store. He lives in the neighborhood and is active in neighborhood civic associations, including Neighbor's, Inc. He has been given an award by the Brightwood Citizens Association for his work with litter control in that neighborhood. He testified that he saw his store as a

community based operation that served the immediate four block area surrounding the store and that it was his intention to continue to work with community groups to monitor community attitudes and to become aware of and resolve complaints quickly.

19. The proposed Pizza Hut will be a company run store that hires employees from and serves the surrounding community. Pizza Hut is a family type sit-down restaurant that has experienced little trouble with litter or noise at other locations. The District Manager from Pizza Hut testified that he had no reason to believe that the granting of this application would adversely affect the health, safety, or welfare of the neighborhood. The Board so finds.

20. Advisory Neighborhood Commission - 4B, by letter of November 4, 1981, reported that it recommended approval of the application with the following reservations:

1. Signs to be on buildings only
2. Large trees as buffer for townhouses in rear
3. Adequate trash receptacles and policing of trash
4. No electronic games.

21. The Board is required by statute to give great weight to the written recommendations of the ANC wherein the ANC expresses its issues and concerns. The Board concurs with the reservations on trees and trash receptacles and will appropriately condition the grant of this application. As to the location of signs, the applicant proposes no signs to be located on the residential portion of the site. As to the reservation on electronics games, the Board finds that both the 7-Eleven and the Pizza Hut are located entirely in the C-2-A District and are permitted as a matter-of-right. All that is at issue before the Board is the use of the rear portion of the site for parking. The Board is of the opinion that whether there are to be electronic games is an individual problem that a franchisee must identify and resolve. In the subject application the Board notes that the franchisee has testified that he will work with citizen groups on such an issue.

CONCLUSIONS OF LAW AND OPINION:

Based on the record, the Board concludes that the applicant is seeking a special exception, the granting of which requires proof that the applicant has complied with the requirements of Paragraph 3101.48 and Sub-section 8207.2 of the Zoning Regulations. The Board concludes that the applicant has met the burden of proof. The applicant has

also demonstrated that the proposed use is in harmony with the general purpose and intent of the zoning regulations and maps and will not tend to adversely affect the use of neighboring property.

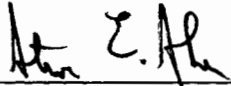
The Board concludes further that the application has reasonably shown that the existing six foot fence on the east lot boundary line provides adequate screening of the commercial use from all contiguous residential uses and that a waiver of the requirements of Paragraph 7404.21 is justifiable. Accordingly, it is ORDERED that the application is GRANTED SUBJECT to the following CONDITIONS:

1. The applicant shall maintain in good repair the existing wooden fence along the east property line.
2. Landscaping shall be provided in accordance with the landscaping plan marked as Exhibit No. 26(a) of the record. No Certificate of Occupancy shall be issued until the required landscaping is completed.
3. Two additional trash cans shall be provided, one immediately to the north of the middle driveway of the three driveways on Georgia Avenue and one immediately to the west of the driveway on Hemlock Street.
4. All areas devoted to driveways, access lanes, and parking areas shall be maintained with a paving of material forming an all-weather impervious surface.
5. No vehicle or any part thereof shall be permitted to project over any lot or building line or on or over the public space.
6. All parts of the lot shall be kept free of refuse or debris and shall be paved or landscaped. Landscaping shall be maintained in a healthy growing condition and in a neat and orderly appearance.
7. Any lighting used to illuminate the parking lot or its accessory building shall be so arranged that all direct rays of such lighting are confined to the surface of the parking lot.

VOTE: 4-0 (Charles R. Norris, Walter B. Lewis, and Connie Fortune to GRANT; Douglas J. Patton to GRANT by PROXY; William F. McIntosh not voting, not having heard the case).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:


STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: _____

MAR 17 1982

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF LICENSES, INVESTIGATIONS, AND INSPECTIONS.